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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,408	02/14/2006	Christophe Pierre Antoine Marie Girard	403416/WEINSTEIN	4583
23548	7590	09/08/2008	EXAMINER	
LEYDIG VOIT & MAYER, LTD 700 THIRTEENTH ST. NW SUITE 300 WASHINGTON, DC 20005-3960			BATTULA, PRADEEP CHOURDARY	
		ART UNIT	PAPER NUMBER	
		3725		
		MAIL DATE		DELIVERY MODE
		09/08/2008		PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/539,408	<b>Applicant(s)</b> GIRARD, CHRISTOPHE PIERRE ANTOINE MARIE
	<b>Examiner</b> PRADEEP C. BATTULA	<b>Art Unit</b> 3725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 08 May 2008.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-13 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-13 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_.  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1 – 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herlitz in view of Gallot.

In regards to Claim 1 and 13, Herlitz discloses a document filing folder 10 comprising: a cover 20 (Figure 1) including an anterior sheet (Figure 2; page on right of spiral) and a posterior sheet (Figure 2; page on left of spiral), a binding 18a joining the anterior and posterior sheets (Figure 2, Item 18a); and notebook pages securely connected to the binding (Figure 1; spiral binding is well known to securely bind sheets; Novelty section of previously provided attachments states the binding holds notebook pages) wherein a first sheet of the anterior and posterior sheets includes a first flap 33 along one of lower and upper edges of the first sheet (Figure 2, Item 33) and a second flap 32 along a lateral edge of the first sheet (Figure 2, Item 32). Furthermore the flaps are capable of retaining pages which are bound by the spiral since section 35 of the flaps are glued to one another and therefore allowing flexing for insertion of pages (Attachment, Novelty section; sheets inside the notebook are disclosed and therefore notebook pages and are able to be stored in the formed pocket due to the flexibility), wherein the flaps are adhered one on top of the other (Figure 2, Items 32, 33), toward

the interior side of the first sheet, with the notebook pages capable of being held under the flaps folded towards the interior side of the first sheet (Attachment, Novelty Section; pages can be stored in the folded sections nothing is to prevent the bound papers from being inserted since the pocket is capable of holding the bound pages).

Herlitz does not disclose that the flaps are foldable from an open position to a closed position where in the open position the notebook pages are fully accessible.

Gallot teaches of a document filing folder (Figure 1) comprising: a cover including an anterior sheet 2 and a posterior sheet 1 (Figure 1, Items 1, 2): wherein a first sheet of the anterior and posterior sheets includes: a first flap along one of lower and upper edges of the first sheet 17 (Figure 1, Item 17), and a second flap along a lateral edge of the first sheet 12, 13 (Figure 2, Items 12, 13), the first and second flaps each having a first position folded (Figures 1 and 3 show that the flaps can be folded and unfolded and this is especially shown by the multiple hinge lines), one on top of the other towards an interior side of the first sheet (Figure 3), and each having a second position folded away from an interior side of the first sheet (Figure 2), wherein the notebook pages are in storage under the first and second flaps that are both in the first position (Figure 3) and the notebook pages are fully accessible from the first and second flaps that are both in the second position (Figure 2; Figure 3 shows that the flaps are completely removable). Therefore it would have been obvious to try by a person having ordinary skill in the art at the time the invention was made to provide the flaps of Gallot in place of Herlitz's since flaps can either be provided in a fastened position with one another or a non

fastened positioned. Such a modification would provide the ability for the flaps to easily accompany multiple sheets and stacks of variable size.

In regards to Claim 2, Herlitz modified by Gallot further discloses wherein the first sheet with the flaps is the posterior sheet (Figure 2, Herlitz).

In regards to Claims 3 and 6, Herlitz modified by Gallot further discloses wherein the binding includes a spiral 18a (Figure 3, Item 18a; Herlitz), which therefore enables the notebook pages to be stored flat against the first sheet with the flaps folded toward the interior side of the first sheet with notebook pages under the first and second flaps.

In regards to Claim 4, 7, and 8, Herlitz modified by Gallot discloses the filing folder further comprising closing means 4 for keeping the filing folder closed with the notebook pages between the anterior and posterior sheets with the closing means including a rubber band (Figure 1, Item 4; Gallot) and attached to the sheet where flaps do not exists and sliding relative to the sheet through eyelets 6 (Figure 1, Item 6; Gallot) and which can be placed over at least one corner of both sheets and parallel to the binding.

Herlitz modified by Gallot does not disclose the rubber band is attached to the first sheet, sliding relative to the first sheet through eyelets, and which can be placed over at least one a corner of a second of the anterior sheet and the posterior sheet. However, the rubber band of Gallot can be used on either portion of the folder since the same positioning on the cover with the flaps would enable the same closure capabilities. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the rubber band of Gallot on the sheet with the flaps in

order to provide Herlitz with a closure mechanism. Also, it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950). Furthermore, it would have been obvious to try by a person having ordinary skill in the art to provide the rubber band on the sheet with the flaps, where the rubber band can exist only on two covers, in order to provide an alternate and equally operative closure mechanism.

In regards to Claims 5 and 9 – 11, Herlitz modified by Gallot further discloses wherein the first sheet has a third flap 16 (Figures 1 – 3, Item 16; Gallot) and the first and third flaps are respectively located along the lower and upper edges of the first sheet (Figures 1 – 3, Items 16, 17; Gallot).

In regards to Claim 12, please review the rejection of Claims 1 and 5 which cover identical subject matter.

***Response to Arguments***

Applicant's arguments with respect to the pending claims have been considered but are moot in view of the new ground(s) of rejection.

With respect to the modification the flaps as provided can accommodate the pages that are still attached to the binding since the flaps can go from a folded to unfolded positions.

With respect to the modification of Herlitz's flaps, as discussed in the interview the flaps are adhered in Herlitz. Although this might be seen as the intent of the invention, the real intent of the invention is to be capable of holding sheets. The modification of Herlitz with Gallot does not change the intent of the invention.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PRADEEP C. BATTULA whose telephone number is (571)272-2142. The examiner can normally be reached on Mon. - Thurs. & alternating Fri. 7:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H. Banks can be reached on 571-272-4419. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/P. C. B./  
Examiner, Art Unit 3725  
September 3, 2008

/Derris H Banks/  
Supervisory Patent Examiner, Art Unit 3725